IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 700 of 1995

Between:

1 Smt. G. Kalamma W/o late G. Venkataiah
R/o Alair (V) & (M), Nalgonda Dist.
2 G. Vishnu S/o late G. Venkataiah
R/o Alair (V) & (M), Nalgonda Dist.
3 G. Dayakar S/o late G. Venkataiah
R/o Alair (V) & (M), Nalgonda Dist.

..... PETITIONERS

AND

1 Prl. Secretary to Govt. Revenue Dept.
Govt. of A.P. Secretariat Buildings,
Hyderabad
2 Joint Collector
Nalgonda Dist.
3 Sub-Collector,
Bhongir, Nalgonda Dist.
4 Mandal Revenue Officer,
Alair, Nalgonda Dist.
5 Sri Nathakani Sailu S/o late Mallaiah
R/o Kazipet, Warangal Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ especially one in the nature of writ of Mandamus calling for the records pertaining to the respondent No.2 order No.C3/JC/Assn/29/94 dt: 7-12-1994 in confirming the order of the respondent No.3 passed in his case No.C/13/89 (2765/89) dt: 30-7-1994 for resumption of possession of the land admeasuring Ac.2-10 gts. in Survey No.1038 situated at Alair Village, & Mandal of Nalgonda dist. and declare the same as illegal, arbitrary, unjust and unconstitutional; besides being voilative of principles of natural justice while issuing consequential direction to the respondents that the petitioners are entitled to continue the possession of the said land.

Counsel for the Petitioner:MR.D.GOVARDHANA CHARY
Counsel for the Respondent Nos 1 to 4.: GP FOR REVENUE
Counsel for the Respondent No.5: Sri N.Krishna Rao

The Court made the following :

ORDER:

This writ petition is filed by the petitioners invoking the jurisdiction of this Court under Article 226 of the Constitution of India with a prayer to call for the records pertaining to the respondent No.2 order No.C3/JC/Assn/29/94 dated 7-12-1994 confirming the order of the respondent No.3 passed in his case No.C/13/89 (2765/89) dt: 30-7-1994 for resumption of possession of the land admeasuring Ac.2-10 gts. in Survey No.1038 situated at Alair Village, & Mandal of Nalgonda dist. and declare the same as illegal, arbitrary, unjust and unconstitutional and direct the respondents to continue the petitioners in possession of the said land.

The case of the 2nd petitioner is that her father purchased Ac.2.10 guntas from the father of 5th respondent for a valid consideration on 7.5.1976 and subsequently, it was registered under the document No:187/1984, dated 9.2.1984. On the petition filed by the 5th respondent as to the wrong entries in pahanies, it was held that the 5th respondent was never in possession of the land in question and the petitioners are in possession of the said land from May, 1976. However, the 3rd respondent having dismissed the said petition directed the resumption of the land to make fresh assignment on the ground of violation the provisions under A.P. Assigned Lands (prohibition of Transfers) Act, 1977. Aggrieved by the same, the petitioners moved the 2nd respondent who in turn directed the 4th respondent to resume the land for the purpose of fresh assignment.

Heard the learned counsel on either side.

I have perused the material available on record.

The impugned order goes to show that originally, the land in question was assigned to one Nathagani Mallaih, father of respondent No.5. But, it is the case of the petitioners that the father of the 2nd petitioner purchased the same in the year 1976

and they have been in possession of the same since then.

As could be seen from the order impugned, the land in question was never cultivated by the assignee who is the father of the 5th respondent and it was sold to the father of the 2nd petitioner and it was developed by the petitioners and the petitioners are in possession of the land by digging a well in the land and mutation was effected and patta was issued in their favour.

In view of the fact apparent from the record that mutation was effected and patta was issued in favour of the petitioners and the said fact has not been considered while passing the order impugned, I am of the considered view that the matter needs fresh consideration. Therefore, the order of the 2nd respondent-Joint Collector is set aside and the matter is remanded back to the 4th respondent-Mandal Revenue Officer for fresh consideration, after issuing notice to the concerned parties, and for passing appropriate orders in accordance with law, within a period of three months from the date of receipt of a copy of this order. Till such time, the interim stay granted by this Court on 18.1.1995 shall continue.

Subject to the above directions, this writ petition is disposed of. No costs.

16-09-2004

Stp

Sd/-

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Prl. Secretary to Govt. Revenue Dept.
Govt. of A.P. Secretariat Buildings,
Hyderabad
2 Joint Collector
Nalgonda Dist.
3 Sub-Collector,
Bhongir, Nalgonda Dist.
4 Mandal Revenue Officer,
Alair, Nalgonda Dist.
5. 2CCs to G.P.for revenue

6. 2CD copies

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

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